procure visas; and lowering the across-the-board qualifications for the L visas might encourage more fraudulent petitions. With a company that has been prescreened and approved for the ''blanket'' L visa status, the risk of fraud is much lower.

Thus, I urge my colleagues to support this bill.

Madam Speaker, I reserve the balance of my time.

Mr. WEXLER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 2278. This is a positive bill because it allows work authorization for nonimmigrant spouses of intracompany transferees.

Not only will spouses be able to accompany their husband or wife who is in the United States in a nonimmigrant capacity, but these spouses will now be afforded the opportunity to be employed. It makes no sense to allow spouses to accompany their loved ones to the United States and then deny them the opportunity to be employed.

Global companies are finding it increasingly difficult to relocate foreign nationals to the United States. This bill makes relocation easier since spouses will not have to forgo their career, ambitions or a second income, which is increasingly necessary.

This bill is also positive since it contains a 6-month reduction in the period of time during which certain intracompany transferees have to be continuously employed before applying for admission to the United States. Without this bill, companies who recruit and hire individuals overseas with specialized skills to meet the needs of their clients will be able to bring these employees more expeditiously.

Madam Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 2278.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

DETERMINATION OF SUBSTANTIAL NEW QUESTIONS OF PATENTABILITY IN REEXAMINATION PROCEEDINGS

Mr. SENSENBRENNER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1866) to amend title 35, United States Code, to clarify the basis for granting requests for reexamination of patents, as amended.

The Clerk read as follows:

H.R. 1866

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DETERMINATION OF SUBSTANTIAL NEW QUESTION OF PATENTABILITY IN REEXAMINATION PROCEEDINGS.

Sections 303(a) and 312(a) of title 35, United States Code, are each amended by adding at the end the following: ''The existence of a substantial new question of patentability is not precluded by the fact that a patent or printed publication was previously cited by or to the Office or considered by the Office.''.

SEC. 2. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to any determination of the Director of the United States Patent and Trademark Office that is made under section 303(a) or 312(a) of title 35, United States Code, on or after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 1866, as amended, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, Congress established the patent reexamination system in 1980. The 1980 reexamination statute was enacted with the intent reexamination of patents by the Patent and Trademark Office would achieve three principal benefits, first, to settle validity disputes more quickly and less expensively than litigation; second, to allow courts to refer patent validity questions to an agency with expertise in both the patent law and technology; and third, to reinforce investor confidence in the certainty of patent rights by affording an opportunity to review patents of doubtful validity.

More than 20 years after the original enactment of the reexamination statute, the Committee on the Judiciary still endorses these goals and encourages third parties to pursue reexamination as an efficient way of settling patent disputes.

Reexamination worked well until recently when it was severely limited by a Federal Court of Appeals decision. H.R. 1866 is intended to overturn the 1997 In re Portola Packaging case by the United States Court of Appeals for the Federal circuit. That decision severely impairs the patent reexamination process. Reexamination was intended to be an important quality check on defective patents. Unfortunately, this decision severely limits its use.

The Portola case is criticized for establishing an illogical and overly strict bar concerning the scope of reexamination requests. The bill permits a broader range of cases to be the subject of a request, as was the case for the first 16 years since the law was enacted. The bill that we consider today preserves the ''substantial new question standard'' that is an important safeguard to protect all inventors against frivolous action and against harassment, while allowing the process to continue as originally intended. It also preserves the discretion of the Patent and Trademark Office in evaluating these cases.

The bill has been amended since its introduction by the full committee. I wish to take a moment to explain this to my colleagues.

Since its introduction, we heard from the public members of the bar and critics of the Portola decision who have recommended that we make an additional change to ensure the result that we seek. The text is clarified to permit the use of relevant evidence that was ''considered'' by the PTO, but not necessarily ''cited.'' Some would say this is redundant, but I prefer to clarify precisely when reexamination is an available procedure. This will ensure that the system is flexible and efficient. While many believe the base text is satisfactory to meet that goal, I hope that the amendment removes any doubt.

I believe that adding this one sentence to the Patent Act will help prevent the misuse of defective patents in all fields, especially those concerning business methods. An efficient patent system is important for inventors, investors and consumers. I urge Members to support H.R. 1866.

Madam Speaker, I reserve the balance of my time.

Mr. BERMAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 1866, and I urge my colleagues to vote for it.

The Committee on the Judiciary favorably reported this legislation by voice vote on June 20. Prior to that, the Subcommittee on Courts, the Internet and Intellectual Property passed the bill by a voice vote on May 22. It is a good step forward on the road of making reexamination a more attractive and effective option for challenging a patent's validity.

The bill overturns, as the gentleman from Wisconsin mentioned, the 1997 Federal circuit decision In Re Portola Packaging. In that case, the Federal circuit narrowly construed the term ''substantial new question of patentability'' to mean prior art that was not

before the examiner during an earlier examination. Because the PTO director can only order a reexamination if a ''substantial new question of patentability'' exists, the Federal court's decision in Portola effectively bars the PTO from conducting a reexamination based on prior art that was cited in the patent application.

The Portola decision is troublesome because it prevents reexaminations from correcting mistakes made by examiners. Ideally, a reexamination could be requested based on prior art cited by an applicant that the examiner failed to adequately consider. However, after Portola, such prior art could not be the basis of the reexamination.

By overturning the Portola decision, H.R. 1866 will allow reexamination to correct some examiner errors. Thus, this bill will accomplish an important, if narrow, objective.

Madam Speaker, as far as I know, H.R. 1866 has not engendered any controversy, and I urge my colleagues to support it.

Madam Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Madam Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. COBLE), the chairman of the Subcommittee on Courts, the Internet and Intellectual Property.

Mr. COBLE. Madam Speaker, I thank the gentleman for yielding me this time. I will be very brief, because the gentleman from Wisconsin has thoroughly stated the matter, as has the gentleman from California.

As the gentleman from Wisconsin has indicated, H.R. 1866, Madam Speaker, consists of adding a single sentence to the law in order to improve the patent reexamination system. It is based upon testimony that was offered before our subcommittee earlier this year. With this single sentence, we stab at the heart of defective business method and other inappropriately issued patents. At the same time, we protect small businesses and small inventors from harassing conduct in these proceedings.

I want to thank the distinguished gentleman from California (Mr. BERMAN), my friend and the ranking member of the subcommittee, for his work, as well, on this bill, and for that matter, all of the members of the subcommittee.

In closing, I want to thank the distinguished gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the full committee, for having expeditiously moved this legislation along, because it is important legislation. I urge my colleagues to support H.R. 1866.

Mr. SENSENBRENNER. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1866, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PROVIDING FOR APPEALS BY THIRD PARTIES IN CERTAIN PATENT REEXAMINATION PROCEEDINGS

Mr. SENSENBRENNER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1886) to amend title 35, United States Code, to provide for appeals by third parties in certain patent reexamination proceedings.

The Clerk read as follows:

H.R. 1886

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPEALS IN INTER PARTES REEXAMINATION PROCEEDINGS.

(a) APPEALS BY THIRD-PARTY REQUESTER IN PROCEEDINGS.—Section 315(b) of title 35, United States Code, is amended to read as follows:

''(b) THIRD-PARTY REQUESTER.—A third-party requester—

''(1) may appeal under the provisions of section 134, and may appeal under the provisions of sections 141 through 144, with respect to any final decision favorable to the patentability of any original or proposed amended or new claim of the patent; and

''(2) may, subject to subsection (c), be a party to any appeal taken by the patent owner under the provisions of section 134 or sections 141 through 144.''.

(b) APPEAL TO BOARD OF PATENT APPEALS AND INTERFERENCES.—Section 134(c) of title 35, United States Code, is amended by striking the last sentence.

(c) APPEAL TO COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—Section 141 of title 35, United States Code, is amended in the third sentence by inserting '', or a third-party requester in an inter partes reexamination proceeding, who is'' after ''patent owner''.

SEC. 2. EFFECTIVE DATE.

The amendments made by this Act apply with respect to any reexamination proceeding commenced on or after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1886, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, this bill also attempts to improve the patent reexamination system. It aims at closing an unfortunate administrative loophole and bridging a legal gap in the working of our patent system. The reform also comes out of two hearings that the Subcommittee on Courts, the Internet and Intellectual Property held earlier this year.

While I strongly endorse the professionalism of the Patent and Trademark Office, I believe it is necessary to place a check on the PTO's actions by affording all participants judicial review before a Federal appeals court.

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This check by a higher independent authority is an important safeguard and adds transparency to the process. Rest assured this appellate review will not impose additional burdens on patent-holders arising from Federal trials.

This is an important and necessary amendment that is an overdue change to our intellectual property laws. I urge Members to support H.R. 1886.

Madam Speaker, I reserve the balance of my time.

Mr. BERMAN. Madam Speaker, I yield myself such time as I may consume.

Mr. BERMAN. Madam Speaker, I rise in support of H.R. 1886 and urge my colleagues to vote for it. It is largely noncontroversial. The Committee on the Judiciary's Subcommittee on Courts, the Internet, and Intellectual Property passed it by a voice vote on May 22, and the full committee reported it favorably by voice vote on June 20.

The bill represents a good, if small, step in improving the usefulness of the inter partes reexamination procedure for patents. Currently, the inter partes reexamination procedure places so many constraints on third-party requesters of such reexamination that, as some patent attorneys have stated, ''It would be legal malpractice to recommend a client initiate an inter partes reexamination.''

Among those constraints is the prohibition against a third party appealing an adverse reexamination decision to Federal court or participating in an appeal brought by the patentee.

H.R. 1886 would allow an authority requester to appeal a reexamination decision to Federal court and to participate in an appeal by an applicant. By doing so, H.R. 1886 may make inter partes reexamination a somewhat more attractive option for challenging a patent. A third party will, at the least, now feel comfortable that the courts can be accessed to rectify a mistaken reexamination decision.

While H.R. 1886 may not cure all the defects of inter partes reexamination, I believe it is a good start, and I urge my colleagues to vote for it.